

Appl. No. : 10/646,933  
Filed : August 22, 2003

## REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. By this paper, in furtherance of the election requirement made July 20, 2006, Applicant has cancelled Claims 1-20 and 30-33.

### Discussion of Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected Claims 21-29 and 34-34 under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,633,918. In response, Applicant has filed a terminal disclaimer with respect to this patent, and respectfully submits that the basis of this rejection has been removed.

Applicant submits that the filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission regarding the propriety of the rejection. *See* M.P.E.P § 804.02.

### Discussion of Claim Rejections under 35 U.S.C. §§ 102 and 103

In the Office Action, the Examiner rejected Claims 21, 22, 24, and 25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,292,834, to Ravi (hereinafter "Ravi"). Furthermore, the Examiner rejected Claims 27-29 and 35-36 as being obvious over Ravi. Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. Furthermore, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* M.P.E.P § 2143.03. In response, Applicant respectfully submits that the cited art fails to teach or suggest at least one limitation from each of the above-listed claims.

In the Office Action, the Examiner indicated that Claims 23 and 26 were not rejected based upon prior art. In response, Applicant has amended independent Claims 21 and 24, respectively, to substantially include the subject matter of these dependent claims, each having some variation in scope due to variation in wording. Thus, Applicant respectfully submits in

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view of the amendment and the attached terminal disclaimer, independent Claims 21 and 24 and their dependent claims are now in condition for immediate allowance.

With respect to independent Claims 27 and 33, one embodiment of Applicant's invention is generally directed to determining the consumption requirements of a non-uniform type of multimedia data object, such that the object can be begun to be rendered prior to receipt of the entire object and without interruption after initial rendering. In one embodiment, the consumption requirements are displayed to a user so they can modify the design of the multimedia data object to reduce to the initial buffer time.

Turning to the claims, it is seen that independent Claim 27 recites: "a component configured to analyze the data object and display a buffer size or time that is used for buffering data on another electronic." Independent Claim 34 recites: "an area for displaying data consumption characteristics of a multi-media object having non-uniform consumption characteristics; and an area for displaying a buffer time for transmitting the multi-media object."

One embodiment encompassed under Claim 27 includes a component that allows a user, such as a developer of the multimedia data object, to know the size of the buffer or the buffer time that is needed for a multimedia object. Knowing this, the developer could potentially restructure or redesign the object if the buffer size or time is inordinately high. *See e.g.*, Application pps. 14 and 15. In the Office Action, the Examiner stated: "Ravi does explicitly teach displaying the buffer time on the user interface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ravi to display the playtime variables on the user interface (e.g., windows) because it would have enabled the user to see states of the transmission rates."

In response, Applicant submits that the prior art must suggest the desirability of the claimed invention. *See* M.P.E.P. § 2143.01. The fact that references can be modified is not sufficient to establish prima facie obviousness. *Id.* Furthermore, the fact that the claimed invention is within the capability of one of ordinary skill in the art is not sufficient by itself to establish prima facie obviousness. *Id.* In this case, the Examiner has merely made conclusory findings regarding the motivation to modify the Ravi system. Applicant respectfully submits that the Examiner has failed to provide a prima facie rejection. Applicant respectfully submits that Ravi fails to teach or suggest the need or desirability of displaying a buffer size to a user. Using

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the claimed invention, a user may adaptively redesign the multimedia data object to reduce its initial buffer time or size. In contrast, if Ravi was modified to display the "buffer size" of the client size buffer, this information would only be available to a user of the client device and not the provider of the multimedia data object.

Furthermore, Applicant respectfully submits that dependent claims 31, 32, 33, 35, and 36 each recite additional patentable features. Applicant notes that in the Office Action, the Examiner has failed to particularly point out and describe where any of these features are taught or suggested by the Ravi system. Thus, Applicant respectfully submits that these dependent claims are allowable for the subject matter of their own limitation and those discussed above with respect to the independent base claim.


Summary

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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